

**ASSEMBLY BILL**

**No. 2262**

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**Introduced by Assembly Member Torrico**

February 21, 2008

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An act to amend Section 1255.7 of the Health and Safety Code, and to amend Section 271.5 of the Penal Code, relating to child protection, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2262, as introduced, Torrico. Child protection: safe surrender.

Existing law designates certain locations as safe-surrender sites for the safe surrender of newborn children who are 72 hours of age or younger.

This bill would expand the scope of those provisions to apply to children who are 7 days old or younger. The bill would permit a local fire agency, upon the approval of the appropriate local governing body of the agency, to designate a safe-surrender site. The bill would specify certain circumstances in which a safe-surrender site and its personnel have no liability for a surrendered child.

The bill would also appropriate \$5,000,000 from the General Fund to the State Department of Social Services to conduct a statewide awareness campaign publicizing the existence of the program and to establish a toll-free telephone number for the purpose of providing education and assistance to the public regarding the program.

By imposing new duties on local officials, the bill would impose a state-mandated local program.

The bill would require the State Department of Social Services to report to the Legislature regarding the effect of these provisions on or before January 1, 2012.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1255.7 of the Health and Safety Code is  
2 amended to read:

3 1255.7. (a) (1) For purposes of this section, “safe-surrender  
4 site” means ~~either~~ any of the following:

5 (A) A location designated by the board of supervisors of a  
6 county *or by a local fire agency upon the approval of the*  
7 *appropriate local governing body of the agency*, to be responsible  
8 for accepting physical custody of a minor child who is ~~72 hours~~  
9 *seven days* old or younger from a parent or individual who has  
10 lawful custody of the child and who surrenders the child pursuant  
11 to Section 271.5 of the Penal Code. *Before designating a location*  
12 *as a safe-surrender site, the designatory entity shall consult with*  
13 *the governing body of a city, if the site is within the city limits, and*  
14 *with representatives of any fire department, and any child welfare*  
15 *agency that may provide services to a child who is surrendered at*  
16 *the site, if that location is selected.*

17 (B) A location within a public or private hospital that is  
18 designated by that hospital to be responsible for accepting physical  
19 custody of a minor child who is ~~72 hours~~ *seven days* old or younger  
20 from a parent or individual who has lawful custody of the child  
21 and who surrenders the child pursuant to Section 271.5 of the Penal  
22 Code.

23 (2) For purposes of this section, “parent” means a birth parent  
24 of a minor child who is ~~72 hours~~ *seven days* old or younger.

25 (3) For purposes of this section, “personnel” means any person  
26 who is an officer or employee of a safe-surrender site or who has  
27 staff privileges at the site.

(4) A hospital and any safe-surrender site designated by the county board of supervisors *or by a local fire agency, upon the approval of the appropriate local governing body of the agency,* shall post a sign utilizing a statewide logo that has been adopted by the State Department of Social Services that notifies the public of the location where a minor child ~~72 hours~~ *seven days* old or younger may be safely surrendered pursuant to this section.

(b) Any personnel on duty at a safe-surrender site shall accept physical custody of a minor child ~~72 hours~~ *seven days* old or younger pursuant to this section if a parent or other individual having lawful custody of the child voluntarily surrenders physical custody of the child to personnel who are on duty at the safe-surrender site. Safe-surrender site personnel shall ensure that a qualified person does all of the following:

(1) Places a coded, confidential ankle bracelet on the child.

(2) Provides, or makes a good faith effort to provide, to the parent or other individual surrendering the child a copy of a unique, coded, confidential ankle bracelet identification in order to facilitate reclaiming the child pursuant to subdivision (f). However, possession of the ankle bracelet identification, in and of itself, does not establish parentage or a right to custody of the child.

(3) Provides, or makes a good faith effort to provide, to the parent or other individual surrendering the child a medical information questionnaire, which may be declined, voluntarily filled out and returned at the time the child is surrendered, or later filled out and mailed in the envelope provided for this purpose. This medical information questionnaire shall not require any identifying information about the child or the parent or individual surrendering the child, other than the identification code provided in the ankle bracelet placed on the child. Every questionnaire provided pursuant to this section shall begin with the following notice in no less than 12-point type:

NOTICE: THE BABY YOU HAVE BROUGHT IN TODAY MAY HAVE SERIOUS MEDICAL NEEDS IN THE FUTURE THAT WE DON'T KNOW ABOUT TODAY. SOME ILLNESSES, INCLUDING CANCER, ARE BEST TREATED WHEN WE KNOW ABOUT FAMILY MEDICAL HISTORIES. IN ADDITION, SOMETIMES RELATIVES ARE NEEDED FOR LIFE-SAVING TREATMENTS. TO MAKE SURE THIS BABY WILL HAVE A HEALTHY FUTURE, YOUR ASSISTANCE

1 IN COMPLETING THIS QUESTIONNAIRE FULLY IS  
2 ESSENTIAL. THANK YOU.

3 (c) Personnel of a safe-surrender site that has physical custody  
4 of a minor child pursuant to this section shall ensure that a medical  
5 screening examination and any necessary medical care is provided  
6 to the minor child. Notwithstanding any other provision of law,  
7 the consent of the parent or other relative shall not be required to  
8 provide that care to the minor child.

9 (d) (1) As soon as possible, but in no event later than 48 hours  
10 after the physical custody of a child has been accepted pursuant  
11 to this section, personnel of the safe-surrender site that has physical  
12 custody of the child shall notify child protective services or a  
13 county agency providing child welfare services pursuant to Section  
14 16501 of the Welfare and Institutions Code, that the safe-surrender  
15 site has physical custody of the child pursuant to this section. In  
16 addition, any medical information pertinent to the child's health,  
17 including, but not limited to, information obtained pursuant to the  
18 medical information questionnaire described in paragraph (3) of  
19 subdivision (b) that has been received by or is in the possession  
20 of the safe-surrender site shall be provided to that child protective  
21 services or county agency.

22 (2) Any personal identifying information that pertains to a parent  
23 or individual who surrenders a child that is obtained pursuant to  
24 the medical information questionnaire is confidential and shall be  
25 exempt from disclosure by the child protective services or county  
26 agency under the California Public Records Act (Chapter 3.5  
27 (commencing with Section 6250) of Division 7 of Title 1 of the  
28 Government Code). Any personal identifying information that  
29 pertains to a parent or individual who surrenders a child shall be  
30 redacted from any medical information provided to child protective  
31 services or the county agency providing child welfare services.

32 (e) Child protective services or the county agency providing  
33 child welfare services pursuant to Section 16501 of the Welfare  
34 and Institutions Code shall assume temporary custody of the child  
35 pursuant to Section 300 of the Welfare and Institutions Code  
36 immediately upon receipt of notice under subdivision (d). Child  
37 protective services or the county agency providing child welfare  
38 services pursuant to Section 16501 of the Welfare and Institutions  
39 Code shall immediately investigate the circumstances of the case  
40 and file a petition pursuant to Section 311 of the Welfare and

1 Institutions Code. Child protective services or the county agency  
2 providing child welfare services pursuant to Section 16501 of the  
3 Welfare and Institutions Code shall immediately notify the State  
4 Department of Social Services of each child to whom this  
5 subdivision applies upon taking temporary custody of the child  
6 pursuant to Section 300 of the Welfare and Institutions Code. As  
7 soon as possible, but no later than 24 hours after temporary custody  
8 is assumed, child protective services or the county agency  
9 providing child welfare services pursuant to Section 16501 of the  
10 Welfare and Institutions Code shall report all known identifying  
11 information concerning the child, except personal identifying  
12 information pertaining to the parent or individual who surrendered  
13 the child, to the California Missing Children Clearinghouse and  
14 to the National Crime Information Center.

15 (f) If, prior to the filing of a petition under subdivision (e), a  
16 parent or individual who has voluntarily surrendered a child  
17 pursuant to this section requests that the safe-surrender site that  
18 has physical custody of the child pursuant to this section return  
19 the child and the safe-surrender site still has custody of the child,  
20 personnel of the safe-surrender site shall either return the child to  
21 the parent or individual or contact a child protective agency if any  
22 personnel at the safe-surrender site knows or reasonably suspects  
23 that the child has been the victim of child abuse or neglect. The  
24 voluntary surrender of a child pursuant to this section is not in and  
25 of itself a sufficient basis for reporting child abuse or neglect. The  
26 terms “child abuse,” “child protective agency,” “mandated  
27 reporter,” “neglect,” and “reasonably suspects” shall be given the  
28 same meanings as in Article 2.5 (commencing with Section 11164)  
29 of Title 1 of Part 4 of the Penal Code.

30 (g) Subsequent to the filing of a petition under subdivision (e),  
31 if within 14 days of the voluntary surrender described in this  
32 section, the parent or individual who surrendered custody returns  
33 to claim physical custody of the child, the child welfare agency  
34 shall verify the identity of the parent or individual, conduct an  
35 assessment of his or her circumstances and ability to parent, and  
36 request that the juvenile court dismiss the petition for dependency  
37 and order the release of the child, if the child welfare agency  
38 determines that none of the conditions described in subdivisions  
39 (a) to (d), inclusive, of Section 319 of the Welfare and Institutions  
40 Code currently exist.

1 (h) A safe-surrender site, or *the personnel of a safe-surrender*  
2 *site, shall not have liability of any kind for a surrendered child*  
3 *prior to taking actual physical custody of the child. A*  
4 *safe-surrender site, or personnel of the safe-surrender site, that*  
5 accepts custody of a surrendered child pursuant to this section shall  
6 not be subject to civil, criminal, or administrative liability for  
7 accepting the child and caring for the child in the good faith belief  
8 that action is required or authorized by this section, including, but  
9 not limited to, instances where the child is older than ~~72 hours~~  
10 *seven days* or the parent or individual surrendering the child did  
11 not have lawful physical custody of the child. A *safe-surrender*  
12 *site, or the personnel of a safe-surrender site, shall not be subject*  
13 *to civil, criminal, or administrative liability for a surrendered child*  
14 *prior to the time that the site or its personnel know, or should*  
15 *know, that the child has been surrendered.* This subdivision does  
16 not confer immunity from liability for personal injury or wrongful  
17 death, including, but not limited to, injury resulting from medical  
18 malpractice.

19 (i) (1) In order to encourage assistance to persons who  
20 voluntarily surrender physical custody of a child pursuant to this  
21 section or Section 271.5 of the Penal Code, no person who, without  
22 compensation and in good faith, provides assistance for the purpose  
23 of effecting the safe surrender of a minor ~~72 hours~~ *seven days* old  
24 or younger shall be civilly liable for injury to or death of the minor  
25 child as a result of any of his or her acts or omissions. This  
26 immunity does not apply to any act or omission constituting gross  
27 negligence, recklessness, or willful misconduct.

28 (2) For purposes of this section, “assistance” means transporting  
29 the minor child to the safe-surrender site as a person with lawful  
30 custody, or transporting or accompanying the parent or person  
31 with lawful custody at the request of that parent or person to effect  
32 the safe surrender, or performing any other act in good faith for  
33 the purpose of effecting the safe surrender of the minor.

34 (j) For purposes of this section, “lawful custody” means physical  
35 custody of a minor ~~72 hours~~ *seven days* old or younger accepted  
36 by a person from a parent of the minor, who the person believes  
37 in good faith is the parent of the minor, with the specific intent  
38 and promise of effecting the safe surrender of the minor.

39 (k) Any identifying information that pertains to a parent or  
40 individual who surrenders a child pursuant to this section, that is

1 obtained as a result of the questionnaire described in paragraph  
2 (3) of subdivision (b) or in any other manner, is confidential, shall  
3 be exempt from disclosure under the California Public Records  
4 Act (Chapter 3.5 (commencing with Section 6250) of Division 7  
5 of Title 1 of the Government Code), and shall not be disclosed by  
6 any personnel of a safe-surrender site that accepts custody of a  
7 child pursuant to this section.

8 SEC. 2. Section 271.5 of the Penal Code is amended to read:

9 271.5. (a) No parent or other individual having lawful custody  
10 of a minor child ~~72 hours~~ *seven days* old or younger may be  
11 prosecuted for a violation of Section 270, 270.5, 271, or 271a if  
12 he or she voluntarily surrenders physical custody of the child to  
13 personnel on duty at a safe-surrender site.

14 (b) For purposes of this section, “safe-surrender site” has the  
15 same meaning as defined in paragraph (1) of subdivision (a) of  
16 Section 1255.7 of the Health and Safety Code.

17 (c) (1) For purposes of this section, “lawful custody” has the  
18 same meaning as defined in subdivision (j) of Section 1255.7 of  
19 the Health and Safety Code.

20 (2) For purposes of this section, “personnel” has the same  
21 meaning as defined in paragraph (3) of subdivision (a) of Section  
22 1255.7 of the Health and Safety Code.

23 SEC. 3. On or before January 1, 2012, the State Department  
24 of Social Services shall report to the Legislature regarding the  
25 effect of this act, including, but not limited to, all of the following  
26 information:

27 (a) The number of children one year of age or younger who are  
28 found abandoned, dead or alive, in the state for each year in which  
29 reporting is required under this act.

30 (b) The number of infants surrendered pursuant to this act, with  
31 their approximate age.

32 (c) The number of medical history questionnaires completed in  
33 those cases.

34 (d) The number of instances in which a parent or other person  
35 having lawful custody seeks to reclaim custody of a surrendered  
36 child, both during and after the initial period following surrender,  
37 and the outcome of those cases.

38 (e) Whether a person seeking to reclaim custody is the individual  
39 who surrendered the child.

1 (f) The number of children surrendered pursuant to this act who  
2 show signs of neglect or abuse and the disposition of those cases.

3 (g) The number of parents or legal guardians eventually located  
4 and contacted by social workers.

5 SEC. 4. The sum of five million dollars (\$5,000,000) is hereby  
6 appropriated from the General Fund to the State Department of  
7 Social Services for the purpose of supporting the Safe-Surrender  
8 Site Program as follows:

9 (a) Conducting a statewide awareness campaign publicizing the  
10 existence of the program providing safe-surrender sites as described  
11 in Section 1255.7 of the Health and Safety Code and related  
12 provisions of law, and any changes to the law establishing the  
13 program that take effect on or after January 1, 2009. When outreach  
14 materials regarding the program are revised, those materials shall  
15 include information regarding alternatives to relinquishing parental  
16 rights.

17 (b) Establishing and operating a toll-free telephone number for  
18 the purpose of providing education and assistance to the public  
19 regarding safe-surrender sites.

20 SEC. 5. If the Commission on State Mandates determines that  
21 this act contains costs mandated by the state, reimbursement to  
22 local agencies and school districts for those costs shall be made  
23 pursuant to Part 7 (commencing with Section 17500) of Division  
24 4 of Title 2 of the Government Code.